

**A**Administrative  
**S**ervices  
**L**etter

**07-05**  
**Grievance Procedure**  
**(Excluded Employees)**



Signed By	/s/ Marie Stephans, Chief Administrative Services Division	Number	07-05
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Guide Section	<a href="#">Labor Relations</a>	Reference	Department of Personnel Administration Rule 599.859

This Administrative Services Letter (ASL) outlines the [grievance procedure for excluded employees](#). Excluded employee is defined as any employee of the State that is excluded from or otherwise without exclusive representation pursuant to the Ralph C. Dills Act (Government Code section 3512 et seq.). Excluded employees include those who are designated managerial, supervisory, exempt or confidential. Since grievances can be sensitive and complex, managers and supervisors responding to grievances should consult with the Labor Relations Section whenever a grievance is received.

Questions regarding the excluded employee grievance procedure should be directed to the Air Resources Board, Labor Relations Officer at (916) 323-6753.

*Grievance Procedure for Excluded Employees*

# Handbook

**G**rievance **P**rocedure  
**Excluded Employees**

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# Grievance Procedure

*Grievance Procedure for Excluded Employees*

## Introduction


Employee job-related issues and concerns are to be resolved promptly, fairly and at the lowest possible organizational level. This Administrative Services Letter (ASL) outlines the basic procedures for addressing excluded employee grievances. Employees shall be assured freedom from reprisal or harassment for filing a grievance under this policy.

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## GRIEVANCE PROCEDURE FOR EXCLUDED EMPLOYEES

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The Air Resources Board is committed to maintaining a work environment where its diverse employee population can work in an atmosphere of tolerance, civility, and mutual respect for the rights, duties, and sensibilities of each individual. The excluded employee grievance procedure is available to managerial, supervisory, exempt, and confidential employees to assist in the resolution of disputes over the interpretation or application of a statute, regulation, policy, or practice which falls under the jurisdiction of the Department of Personnel Administration. The purpose of the grievance procedure is to provide for the prompt review and resolution of grievable issues either formally or informally at the lowest possible level.

 **Note:** *Nonmerit statutory appeals pertain to specific situations which must be appealed directly to the Department of Personnel Administration and, therefore, are not subject to the excluded employee grievance procedure. See Administrative Services Letter titled "Appeals Guide" for information regarding the filing and processing of nonmerit statutory appeals.*

**Policy:** It is the policy of the Air Resources Board to afford excluded employees an effective means of obtaining prompt consideration and fair investigation and resolution of grievances, either informally or formally. Employees and their respective supervisors and/or managers are encouraged to make reasonable attempts to resolve misunderstandings and to remedy disputes and find acceptable solutions by informal means at the lowest possible level of supervision. If a resolution cannot be reached through the informal process, a formal written grievance may be filed. Employees shall be assured freedom from unlawful discrimination, harassment or reprisal for filing a grievance.

**Definitions:**

TERM	DEFINITION
<u>Excluded Employee:</u>	An employee of the State excluded from or otherwise without exclusive representation under the Ralph C. Dills Act ( <a href="#">Government Code 3512 et seq.</a> ). Excluded employees include managerial, supervisory, exempt, and confidential employees.
<u>Excluded Employee Organization:</u>	An organization that includes excluded employees of the State and which has as one of its primary purposes representing its members in employer-employee relations. "Excluded employee organization" includes supervisory employee organizations. ( <a href="#">List of recognized Supervisory and Excluded Employee Organizations</a> ).
<u>Excluded Grievance:</u>	An excluded employee grievance is a dispute of one or more employees involving the application or interpretation of a statute, regulation, policy, or practice which falls under the jurisdiction of the Department of Personnel Administration.

TERM	DEFINITION
<u>Represented Employee:</u>	A "represented" or "rank and file" employee is a State employee as defined in Government Code section 3513 excluding supervisory employees in accordance with Government Code section 36522.
<u>Supervisory Employee Organization:</u>	An organization that represents members who are supervisory employees. ( <a href="#">List of recognized Supervisory and Excluded Employee Organizations</a> ).

## General Provisions:

The Air Resources Board Labor Relations staff is responsible for advising management representatives on the administration and processing of employee grievances. Questions regarding excluded employee grievances should be addressed to the Labor Relations staff.

*An excluded employee grievance is defined as a dispute of one or more excluded employees involving the application or interpretation of a statute, regulation, policy, or practice which falls under the jurisdiction of the Department of Personnel Administration.*

Grievances, as labor relations appeals, are handled and processed differently than other types of employment-related appeals, e.g., appeals of adverse actions and rejections during probation, examination appeals, merit issue complaints, discrimination complaints, etc. All excluded employee grievances must be processed in good faith in accordance with the following excluded employee grievance procedure.

All parties involved in an excluded employee grievance shall attempt to resolve the grievance issue promptly. Every effort should be made to complete action within the time limits specified.

## Representation:

Excluded employees may choose to be represented by the person of their choice, including an attorney, another excluded employee, or themselves. Organizational representatives must serve on behalf of employee organizations recognized by the Department of Personnel Administration under [California Code of Regulations section 599.857](#). Rank and File employees may not participate in the handling of grievances on behalf of excluded employees.

### Time-Off During Work Hours:

Excluded employees are entitled to a reasonable amount of work time as determined by the supervisor/manager, to meet with his/her representative and/or to prepare and present a grievance. Time off is subject to approval by management and based on operational need. If workload issues prevent an employee being provided time off when requested, an alternate time in the near future must be provided.

### Representative Time-Off:

Upon the request of an aggrieved employee, the employee's representative, if also an excluded State employee, may be authorized a reasonable amount of work time to assist the employee with preparation, filing, and presentation of a grievance. Time-off for this purpose is subject to prior notification and approval of the representative's immediate supervisor.

**Reprisal:** Employees are guaranteed freedom from reprisal, harassment, or discrimination, either threatened or imposed, for use of the grievance procedure. Reprisal, harassment, or discrimination, either imposed or threatened, against an employee, witness, representative, or other individual(s) for filing or participating in a grievance will not be tolerated.

**Grievance Timelines:** Each party involved in an excluded employee grievance is expected to act upon the grievance in a timely manner so that issues and concerns may be dealt with and resolved promptly. Every effort should be made to complete action within the time limits specified. However, with the mutual consent of the parties, the time limit for any step in the grievance procedure may be extended. Agreement to extend time limits at any level must be clearly documented in writing.

*All parties involved in an excluded employee grievance shall attempt to resolve the grievance issue promptly. Every effort should be made to complete action within the time limits specified*

**Filing and  
Appealing a  
Grievance:**

If the employee, or his/her representative, fails to file or to elevate a grievance within the timeframes specified at any level of the excluded employee grievance procedure, the grievance will be considered withdrawn.

**Management  
Response:**

If management, at any level, fails to respond to an excluded employee grievance within the time limits specified, the grievant has the right to appeal to the next level of review.

**Informal Discussion:** An excluded employee who believes he/she may have a grievance shall first meet with his/her immediate supervisor to discuss and attempt to resolve the issue or problem informally. If the grievance issue is not settled within five (5) work days, the excluded employee may file a formal written grievance.

**Formal Grievance Procedure:** If a resolution cannot be reached through the informal process, a formal written grievance may be filed.

**Grievance  
Form:**

Excluded employee grievances are to be filed on an "Excluded Employee Grievance (STD. 631)" form.

- [Excluded Employee Grievance \(STD. 631\) – pdf format](#)
- [Excluded Employee Grievance \(STD. 631\) – word format](#)

**Level 1  
(Branch Chief):**

A formal written grievance may be filed no later than ten (10) work days following the event or circumstance occasioning the grievance. The first level of review shall respond to the grievance in writing within ten (10) work days from receipt of the formal grievance.

**Level 2  
(Division Chief):**

An employee may appeal the first level decision within ten (10) work days after receipt of the first level response. An employee may also appeal to the second level of review if the first-level reviewer fails to respond within the time limit and there is no agreement to extend the time. The second level of review shall respond in writing to the grievance within fifteen (15) work days from receipt of the appeal.

Level 3  
(Labor  
Relations):

An employee may appeal the second level decision within ten (10) work days after receipt of the second level response. An employee may also appeal to the third level of review if the second-level reviewer fails to respond within the time limits and there is no agreement to extend the time. The third level of review shall respond in writing to the grievance within fifteen (15) work days from receipt of the appeal.

Level 4  
(DPA):

An excluded employee may appeal the third level decision to the Department of Personnel Administration (DPA) within ten (10) work days after receipt of the third level response. The Director, DPA, or his/her designee, will respond to the grievance in writing within twenty (20) work days.



## GRIEVANCE PROCEDURE CHART Excluded Employees

